

U. S. PTO Customer No. 25280

Case #2168A

73. (Original): The mat according to claim 72, wherein the mat is an advertising floor mat.

Claims 74 - 81 (Canceled)

### REMARKS

Claims 1-81 were pending in the application. Claims 7, 28, 30-50, 55, 56, 60-69 and 74-81 have been canceled. Claims 1 - 6, 8, 11 - 14, 15, 16, 18 - 20, 22, 23, 26, 29, 51 - 54, 58 and 59 have been amended. No claims have been added. Thus claims 1-6, 8-27, 29, 51-54, 57-59 and 70-73 remain subject to continued examination. Each of these claims is believed to be in condition for allowance. Accordingly, an action to that effect is requested at this time.

### RESTRICTION REQUIREMENT:

At this time Applicants confirm the prior provisional election to prosecute the Group I Claims. Applicants respectfully maintain their traverse of this requirement on the grounds that contemporaneous examination of both groups should not give rise to undue burden on the part of the Examiner since a comprehensive search will no doubt require a review of art directed to both the product and process claims.

### FORMAL REJECTIONS:

Claims 1, 5, 6, 12, 13, 15, 20, 46 and 47 each stand rejected under 35 U.S.C. 112 first or second paragraph. Each of these claims has been either amended or canceled in the manner outlined above so as to address or obviate the outstanding

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formal rejections. Accordingly, reconsideration and withdrawal of all prior formal rejections is requested at this time.

**ANTICIPATION REJECTIONS:**

In the prior Office Action claims 1-8, 11, 14, 16-21, 28, 29, 43-47, 49-52, 55-61, 65-71, 74-77 and 80-81 were subject to art rejections based on anticipation by one or more of U.S. Patent 5,262,092 to Reeder et al., U.S. Patent 5,965,232 to Vinod and/or U.S. Patent 5,524,317 to Nagahama et al. Each of these claims has been either canceled or subject to amendment in a manner believed to overcome the outstanding rejections. In particular, each of the claims now requires a single fabric layer defining the upper exterior of the mat and adapted to retain fluid therein. Claim 1 (and each of the claims depending therefrom) further requires that the single fabric layer consists essentially of a knitted polyester fabric. Claim 22 (and the claims depending therefrom) further requires that the single fabric layer is chemically treated to render it hydrophilic such that fluid is retained therein.

In order to maintain an anticipation rejection every element of the claim must be contained in a single prior art reference. This standard is not met by the cited art. In particular, as best understood Reeder et al. does not disclose a fluid retaining fabric layer defining an upper exterior of a mat. Likewise, as best understood Vinod also fails to disclose such a fluid retaining fabric layer. As best understood Nagahama fails to disclose a mat having a single fabric layer consisting essentially of knitted polyester fabric defining the upper exterior of a mat as recited in claim 1 and the claims

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depending therefrom or treating a single fabric layer to make it hydrophilic as recited in claim 22 and the claims depending therefrom. Rather, Nagahama utilizes a multi-layer structure in which the pile yarns are inserted by tufting or the like into a separate base fabric.

In light of the deficiencies in the teachings of the prior art it appears that no single prior art reference contains all elements of the claims. Accordingly, it is respectfully submitted that all outstanding anticipation rejections should be withdrawn at this time.

OBVIOUSNESS REJECTIONS:

Claims 1-4, 6-11, 16-19, 21-29 and 43-81 stand rejected under 35 U.S.C. §103 as being obvious over the combination of WO 96/32526 to Cooper in view of U.S. Patent 5,817,391 to Rock et al. and U.S. Patent 6,381,778 to Peterson either as a discrete combination or in further view of Schutte et al. or Kaufman. Thus, all obviousness rejections are premised on the combination of Cooper, Rock et al. and Peterson. Continued rejection on this basis is respectfully traversed and reconsideration is requested.

As stated at MPEP §2143, in order to establish a *prima facie* case of obviousness there must be some suggestion or motivation, either in references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references, or to combine reference teachings. The suggestion to make the claimed combination and a reasonable expectation of success must be found in the

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prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20, USPQ2d 1438 (Fed. Cir. 1991). MPEP §2143.01 goes on to state that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Moreover, motivation for combining or modifying the prior art is lacking where the proposed combination or modification renders the device of the prior art unacceptable for its intended purpose.

In the present case it is respectfully submitted that there would be no reasonable motivation for modifying the primary reference to Cooper et al. to reach the invention as presently claimed wherein the mat includes a single fluid-retaining fabric layer defining an exterior face of the mat. In this regard it is noted that the spacer fabric of Cooper requires multiple layers designed to withdraw moisture to the lower layers. Thus, at page 5 it is stated that the upper surface of the spacer fabric is preferably such that liquids and air can easily pass therethrough. As best understood, the secondary references to Rock et al. and Peterson also provide for fluid withdrawal out of the upper layer. Thus, it appears that the use of a single upper fabric layer which retains fluid therein is in contrast to the basic teachings of the cited art. Thus, it is respectfully submitted that the cited combination of references lacks the required suggestion or motivation for making the proposed modification.

#### CONCLUSION:

On the grounds as set forth above, Applicants respectfully request that all remaining claims be passed to issue. While an attempt has been made to address all

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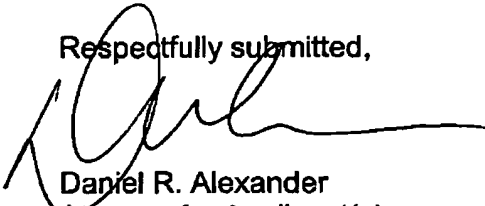
outstanding issues, to any extent that one or more issues remain, the undersigned respectfully requests a telephone conference to resolve such issues.

**EXTENSION OF TIME/AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT**

A request for a three (3) month extension of time accompanies this amendment. Please charge any fees including fees for the requested extension of time and credit any overpayment in connection with this Amendment to Deposit Account 04-0500.

Respectfully submitted,

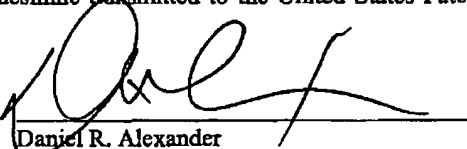
July 9, 2003

  
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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 703-872-9310 on July 9, 2003.

  
Daniel R. Alexander  
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